

Remarks

Claims 1-20 are pending in the application. Claims 1-9 and 19 were rejected, claim 20 was objected to, and claims 10-18 were allowed. By this Amendment, claims 1, 2, 6, 18 and 19 have been amended. Reconsideration of the claims is respectfully requested. No new matter has been added.

Rejections Under 35 U.S.C. § 102

Claims 1 and 19 were rejected under § 102(b) as being anticipated by U.S. Patent No. 5,457,395 issued to Koski et al. (hereinafter Koski '395). Amended claim 1 recites "an assembly for identifying the existence of a gap between first and second surfaces." The assembly includes "a first housing disposed on the first surface and having a transmitter for wirelessly transmitting a first signal" and "a second housing disposed on the second surface and spaced apart from the first portion, the second housing being adapted to receive the first signal and generate a second signal indicative of the existence of the gap based on the first signal." Koski '395 does not recite an assembly having first and second housings as claimed. Instead, Koski '395 discloses a gap sensing apparatus 10 is contained in a single housing 26 (column 4, lines 17-18). More specifically, the single housing 26 contains an active sensor 14 having "a transmitter 16, a receiver 18, and a signal processor 20" (column 3, lines 25-27). Applicants also note that Figure 2, which was cited by the Examiner in the final Office Action, is merely a block diagram (column 2, lines 57-60). The physical manifestation of this preferred embodiment is shown in Figure 3 (column 2, lines 60-63, also note the common reference numbers in Figures 2 and 3), which shows the gap sensing apparatus 10 in a single housing 26 (column 4, lines 17-18). As a result, Applicants believe the rejection of claim 1 has been overcome. Since claim 19 depends on claim 1, Applicants believe that the rejection of this claim has been overcome for the same reasons.

Applicants also believe that a *prima facie* case has not been established for the rejection of claim 19. Claim 19 recites a first housing "disposed on a first vehicle portion" and a second housing "disposed on a second vehicle portion". In the final Office Action, the

Examiner cited only Figure 2 to support this rejection. There is absolutely no disclosure of any portion of a vehicle in Figure 2. As such, Applicants believe the rejection of claim 19 improper and respectfully request that it be withdrawn.

Rejections Under 35 U.S.C. § 103

Claims 3 and 4 were rejected under §103(a) as being unpatentable over Koski '395 in view of U.S. Patent No. 6,529,164 issued to Carter (hereinafter "Carter '164"). Claims 3 and 4 depend on amended claim 1. Consequently, Applicants believe these claims are allowable for the reasons previously discussed.

Claims 2, 5, 6 and 9 were rejected under §103(a) as being unpatentable over Koski '395. Claims 2, 5, 6 and 9 depend on amended claim 1. Consequently, Applicants believe these claims are allowable for the reasons previously discussed.

In addition, a *prima facie* case has not been established for the rejection of claim 6. Claim 6 recites "first, second, and third housings." Koski '395 does not disclose or remotely suggest first, second, and third housings. In the final Office Action the Examiner again cited Figure 2 for support. Figure 2 does not disclose or remotely suggest first, second, and third housings as claimed. In addition, no arguments or support for a third housing were presented in the final Office Action (see final Office Action, page 3). Thus, a *prima facie* case has not been established and Applicants respectfully request that this rejection be withdrawn.


Claims 7 and 8 were rejected under §103(a) as being unpatentable over Koski '395 in view of U.S. Patent No. 5,148,158 issued to Shah (hereinafter "Shah '158"). Claims 7 and 8 depend on amended claim 1. Consequently, Applicants believe these claims are allowable for the reasons previously discussed.

Conclusion

Applicants have made a genuine effort to respond to the Examiner's objections and rejections in advancing the prosecution of this case. Applicants believe all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

Respectfully submitted,

KELLY MICHAEL KOHLSTRAND

By 
Matthew M. Mietzel
Reg. No. 46,929
Attorney for Applicant

Date: July 29, 2005

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351